

## INTERPRETATION OF DETERMINATION IN DELIQUENT HUMAN CONDUCT

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In the socialist countries, and without exaggeration, in the first place in Hungary there is a lively debate in progress on the interpretation of determinism. Controversies are particularly sharp in the matter of will and of the determination of human action. What has to be recognized is that in this field there is not yet such a uniform or predominant concept of philosophy as could be accepted by the branches of science dealing with human behaviour or conduct and could be interpreted and applied uniformly by them. Many of those devoting themselves to criminology, or in general to legal sciences, attribute a high degree of significance to the determined nature of human conduct, because the elaboration of the theoretical foundations of responsibility insists on a scientific, materialist definition and description of the essence of human conduct. In particular the study of criminal liability cannot by-pass an unambiguous attitude to the question, inasmuch as the fate of hundreds of thousands of offenders depends on the settlement of the problem in the one way or the other. The often proclaimed, yet unwritten point of view underrating the importance of theory according to which it is wholly immaterial for the offender whether he is convicted from a determinist or indeterminist outlook, is on the whole erroneous.

The kind of punishment, its contents, the methods of the enforcement of the punishment, the regime are all defined by the underlying theory. The system of punishment is adjusted to what has been set as the objective, the purpose of punishment: is it retaliation, or prevention with an educative end, or the combination of the two.

The discovery of the laws of human behaviour are about as important for us as that of the laws of natural phenomena. The determinist approach to human conduct may, if we resort to a simile, lead to consequences of as vital importance as the change-over from the geocentric outlook to the heliocentric. The Ptolemaic geocentric outlook too permitted men to take their bearings as directed by the stars in their courses. It was possible to establish the length of the year with tolerable accuracy, still the geocentric outlook failed to give a proper reply to many of the questions the

Universe put to mankind. Even after the birth of the Copernican tenets the question could be asked (and perhaps was asked), what profit mankind could derive from the rejection of the geocentric outlook and from proclaiming that the earth was turning round the sun. Today, centuries after the birth of the Copernican laws rockets and other spacecrafts are orbiting in space and man could even land on another celestial body. In our opinion the recognition of determinism and its consistent enforcement in human conduct will sooner or later result revolutionary results in human conduct, in education, in the relations of men among themselves and in the formation of social conditions. It will be at that time that Marxism, the materialist outlook, will unfold itself in its totality and put their stamp on an epoch of society, on a social formation embracing qualitatively new human relations.

The determinist approach to the conduct of the criminal therefore grows in its significance beyond the framework of criminal justice, it serves as guidance for the treatment of offences constituting minor risks only to society, and influences judgements formed of human behaviour in general.

A new interpretation of determinism and attempts to transplant it into the sphere of legal liability on the ground of Marxist philosophy dates back to the early "sixties." Excellent monographs were published in succession,<sup>1</sup> whose authors consistently attired what they had to say in a determinist guise, and accordingly formulated their notions of responsibility.

At present with the emergence of causality and the idea of imprisonment for a term indefinite the debate on the determinedness of human conduct has revived. This debate has to a considerable extent advanced the process of crystallization of the criminological approach, yet it has had a fertilizing effect also on other branches of criminology, in so far as it has reinforced the materialist outlook. Although the debate passes off as the discussion of the interpretation of determinism, in our opinion here materialism and determinism wage their struggle against idealist indeterminist opinions, or their remnants. The debate manifest itself as one on interpretation, because in the course of phenomena the domination of determination has been recognized by all, and all confess themselves materialists. Still there are differences as to the degree and form of determinism. Consequently in the following we shall forgo to offer a definition of the notion of determinism, and confine ourselves to the exposition of our point of view in association with a few fundamental concepts and mooted questions of major importance.

### 1. Notion of determinism

The statement H. Korch has made, viz. that "The affirmation of the principle of causality will lead directly to determinism" appears to be confirmed in every respect.<sup>2</sup> In fact the study of the causes in the back-

ground of delinquency will help to understand the principle of determinism and even to accept it.

The study of the criminal human conduct, of the causes of delinquency and its laws is closely associated with the settlement of the several questions within the notional sphere of determinism. Determinism on the other hand is inseparably interrelated with the essential theses of materialism, so e. g. with the principle of the material unity of the Universe, to the exclusion of anything supernatural, with the infinity and the motion of the material Universe, and the capacity of conscious human activity to shape nature.

The approach to determinism from the part of causality will infallibly call for the clarification of the interrelations of the two concepts, viz. determinism and causality. As regards causality essentially any effect, and so also the criminal offence, is defined by causes and conditions.

In the most generalized philosophic formulation determinism may be defined as the idea formed of the universal definition of natural, social and psychic phenomena. Or in other word the term "determinism" is used to denote the schools or doctrines of philosophy which recognize the existence of a determination or regularity as the existence of a determination or regularity as the result of interrelations and interactions.<sup>3</sup>

Textbooks of philosophy or comprehensive monographs as a rule draw the notions of causality, interrelations, regularity, necessity, random, probability, possibility, contents and form into the orbit of determinism. Notwithstanding the treatment of determinism in general boils down to the study of causality and regularity, further of the necessary and random, probable and possible relations.

This stands to reason inasmuch as these are the most essential interrelations of determinism.

Dealing with causality we have come to the conclusion that causality belongs to the sphere of the past, the relation between cause and effect continue their existence within phenomena already in being, and the regularities manifesting themselves in these phenomena become projected to the future, and render probable the recurrence of the phenomena in the future. In the present the factors of causality are merely in a relation of probability with the potentialities of the future. A causal relation possible to turn up in the future may therefore be considered a probable relation. In this relation there are not yet the effects: they will come into being as soon as anyone of the potentialities becomes reality, i. e. it is transferred to the province of the past (present). And vice versa, the relations of the past have ceased to be probable, there being no more potentialities in the past. No sooner anyone of these potentialities has become a reality, all others have ceased to exist as potentialities. It is in this way that multi-sense relations existing independent of time become in reality (in the present), in the past in the casual relations, a multi-unisense determinedness.



As may be seen in the interpretation of causality a highly important role has been attributed to the time factor, to the separation of past and future. On the other hand determinism as the principle of universal determination is equally valid for the happenings of past and future independently of the progress of time. The relations of the future, the possible and probable relations belong to determination in the same way as those of the past. Therefore in our opinion the backbone of determination is made up of the casual, regular, random, possible and probable relations. On this understanding *the essence of determinism may be defined in the statement that the phenomena once become reality are determined through the chain of regular and random casual interrelations by causes and conditions of necessity, whereas the future phenomena (as one or the other of possibilities) will become determined in a similar way at the moment of becoming reality.*

Of this notional definition for our part we attribute considerable importance to the repeated delineation of the notion of necessity. It is almost impossible to emphasize in a sufficiently conclusive manner how important it is in criminology the correct interpretation of the necessary, the regular and the random for the understanding of the problems of delinquency.

For our part we have adopted the position taken by Földesi, who resolved, the abstract notion of necessity into the notions of the regular and random. In delinquency, as far as the criminal human conduct is concern, this interpretation appears to be confirmed by facts. Accordingly any phenomenon has and will come to pass of necessity, still there are some among them which take place by some sort of regularity, whereas others are of random occurrence, if viewed from a definite angle.

Thus the random has not to be confronted with the necessary, in fact a random phenomenon is also one of necessity. Random may, however, be confronted by the regular, which in like way is of necessity. In a definite relation random and regular are mutually exclusive notions. The one or the other phenomenon studied in the same system must be either one of regularity or one of random. The notion of determinism is before all attached to the notion of the necessary. The phenomena have come to pass of necessity, and as the resultants of causes and conditions will come into being in the same way also, in the future. Within this orbit of necessity there are, however, phenomena which are the effects of regular causal relations, and others, which are random-like. The regular phenomena manifest themselves in the frequency of the causal factors or constellations.

Of the future potentialities in the first place those will become reality or manifest themselves in human conduct, which according to the laws in this scope may be termed as probable. Phenomena which in the past came into being in conformity with strict regularities, will most probably occur in the future too, with a high degree of probability. Essentially, however, the laws or regularities will dominate in the future also only as



tendencies. Random elements will to a higher or lesser degree influence their effects.

The cumulation of random phenomena, their increasing rate of recurrence, will impair the domination of the laws or regularities, and beyond a certain limit the law or regularity will cease to exist only to yield to a new regularity prevailing in phenomena earlier qualified as random events. One of them is a question of etymology and is due to the Hungarian usage. The words "determination" or "determinism" are replaced in Hungarian by the word "meghatározottság" i. e. "determinedness" which suggests something referring to the past, though we use this phrase — as to its sense — concerning future phenomena as well. "Human conduct is determined, defined." Owing to semantic peculiarities this formulation may be understood so that a future conduct is already predetermined in the present, determinism being a universal category. Thus this interpretation in fact contains pre-determinacy, predestination. Therefore such formulation had better be avoided, and instead the proper course would be to declare that the principle of determinacy, of determinism is valid also for human conducts, or that any human conduct in the past is defined, determined, and any future conduct will become defined, determined. Or if we use these established expressions, they are worth referring to their contents in a sentence.

The other notional problem centres round the question whether the notion of determinism may stand without an adjective or epithet. This question emerges from several aspects. First it emerges in a way whether it is to distinguish determinism from the mechanical determinist tendencies developed in the course of history the epithet dialectic may be placed before it. A similar problem of delimitation emerges in connection with the negation of the freedom of will, whether for the delimitation from the divine determination the use of the epithet materialist is more preferable. In our opinion these epithets may be convenient from time to time, still in general their use is not justified, because hardly any talk of determinism occurs without references to the contents of the concept with the idea what determinism meant on the given occasion. More sense is in using the materialist antonyms, etc., i. e. when we speak or write of a determinism different from materialist. Still the use of the epithet may emerge again when it comes to convey an idea of the degree of determination. Often terms such as relative determinedness, or consistent determinedness can be heard. Since in our opinion there is only a single sort of determinacy, which may be either accepted or rejected, it makes useless either of the two epithets. The difference between the two epithets is only that the epithet "consistent" does not indicate a change in the essence of determinedness, whereas the epithet "relative" implies the meaning of indeterminateness. This has been formulated with exceptional clarity by Endre Farkas, when he writes that "Marxist philosophy on analysing the facts of reality, and by using the results of the specialised branches of science excepts the dialectic determinist thesis according to which all objects, phenomena and processes of the material world, and anyone of

them, are directly or indirectly determined by material factors. There are no exceptions to this determinedness: it is equally valid for organic and inorganic nature, and so also for the social and psychological processes. Therefore according to it neither in the material world nor within human nature exists anything like mystic factor, which by self-excitation would exercise an effect on either itself or the material world. Hence from consistent materialist monism in a straight line follows the consistent determinism and vice versa: consistent determinism leads to materialism. In contradistinction to this even an inkling of indeterminism will eventually lead to a mystical factor, so to idealism, and idealism will always reach indeterminism in one way or other. Materialist dialectic determinism applied to human action, carried through consistently, will become the refutation of the indetermined mystical idea of the freedom of will".<sup>4</sup>

## 2. The chances of the freedom of choice

In reality it is the problem of the freedom of will. Here controversies or divergent opinions are clashing most intensely.

The dispute is focussed mostly on the chance of a choice, or the freedom of a choice.

In connection with the freedom of choice the question in general is whether a person has got freedom in preferring one of the possible actions to another, or whether there is any possibility of choice at all, when human conduct, too, is determined. The analysis of causality, as we have carried it through, in its outcome has helped to bring out views on phenomena belonging to the sphere of the past, as phenomena already materialized, to a conclusion, because these phenomena as effects have to the full extent been determined or defined by the causes and conditions, and may now be considered determined. Logically therefore is only one question to be answered, what causes and conditions, what causal constellation, have brought about the phenomenon, the human conduct, what regularities have taken part in the formation of the conduct. Many put the question in a way, whether the person in question could have shown a different, say, not criminal conduct. The reply is a simple one: yes, if other casual factors, other casual constellations had combined in forming his conduct. Since, however, no other factors, but exactly those in question and exactly these casual constellations have combined, the person could show no other conduct than the one he has shown, *i. e. any materialized conduct could have come into being only in a single way, and only in the way it has come to pass.*

Determination on the phenomena being realized is less argued, although from this determination the law of determinacy of future phenomena may be derived straight. Past human conducts, too, along the line of time were positioned sometimes as potentialities, as probable relations. Therefore the laws relating to their determination, their causal determinedness, react also on the determination of future human conducts.



The principle of determinism may be considered universal, because it derives the determination of future phenomena from that of past ones.

Hence a reply to the question put before will be given by the analysis of causality so far carried through and the study of probable relations.

In connection with the freedom of choice the opinions of the profession are divergent. There are some who insist on what is called consistent determinism. Among these in the first place mention should be made of Professor Eörsi, who in his excellent work on legal liability sets out from the material origin of consciousness and from causal determinism and denies the freedom of choice. "The formation of consciousness is a cerebral function. Brain is of material character, and therefore it is subject to the most general laws of the motion. Consequently the operation of consciousness is also subject to these general laws of motion. Motion of material character of the highest order has specific regularities valid only for this sort of motion, neither even together with these it can be an exception to the operation of the laws, which are valid for every material motion. One of these regularities is determinedness: every material motion has a cause and an effect. The totality of the factors of the cause fully determine the effect. If it were not so, then there would remain motives without a cause.

It is resulted in the fact that every human conduct is perfectly determined by its cause, i. e. the totality of factors eliciting this conduct. It means that *human conduct is totally determined: one has no chance of making one's choice.*<sup>5</sup> Tamás Földesi is on the same opinion with the exception that in certain situations he recognizes the possibility of a person to make his choice, still he considers this choice determined as a whole by external and internal determinants.<sup>6</sup> The freedom of choice without any restriction is the doctrine Agnes Heller has accepted: "The relative autonomy of men is in its essence nothing but the relative freedom of choice. This means that man may make his choice of certain objectives, acts, means, and so finally he may choose himself as a moral being. And he may make his choice not only choosing of several possibilities the one or the other (this would in any case still a manifestation of autonomy), but that he might have decided otherwise as he has decided. I. e. he may make his true and actual choice."<sup>7</sup> Similarly Imre Békés is yet another follower of the freedom of choice, i. e. of incomplete, "moderate" determinism.

In the university lecture notes on criminal law he says: "Determinism is a part of Marxist-Leninist ideology, and that of the scientific conception of the Universe and of man." The position taken by the representatives of natural sciences dealing with man, in the first place by geneticists and psychologists, and the notion of Marxist philosophers are, however, of different opinions as regards *the degree of determinedness of the development of human personality.*

The representatives of science agree that in a given situation the action is defined, in a way inevitable by the personality. This means that in a given situation a person cannot act contradicting his personality, i. e.

he "cannot be beside himself", and cannot act independent of himself, his intellect, his temperament, his feelings, his character.

(a) In conformity with the rules of logic from the above statement the conclusion can be drawn that life is nothing but the process of successive situations, consequently the conduct of man is determined in each situation. So throughout his life man can never act in a way other than he has actually acted. If the conduct of man is in every situation, in each moment of his life determined, *the development of his personality will necessarily be determined.*

(b) Against what has been set forth, in (a) many bring forward the tenet that personality also has a self-determining role: it is capable of educating, developing itself. The self-determining role of personality is guaranteed by the "will". Accordingly will under the guidance of the intellect *will react* on personality. The intellect is capable of controlling the temperament, passions, feelings, discarding bad habits, developing the character, enlisting intellect for the sake of proper aims. The significance of the will guided by the intellect within a definite sphere, consists of the fact, that within the limits drawn by inherited qualities and the impact of society, it opens the gate to the self-control of human life in conformity with propriety, justification, the rules of social coexistence and the moral values.<sup>8</sup>

*Kudryavtsev*, the well-known Soviet criminologist, interprets the principle of determinism in a unique way. He asks the question whether the commission of a criminal offence ("output") is inevitably defined by its causes ("input"), or whether the random element has also a part to play in the process.<sup>9</sup>

He answers the question as follows: Marxism absolutely recognizes the determinedness of all human actions, and at the same time it underlines their extreme complexity. Yet this determinism is not identical with the mechanical, unambiguous dependency of Laplace. The physiological, psychological and philosophical investigations of the present days supply an abundant store of facts for the clarification of the physical nature and character of causal relations dominant in nature and in society. A series of branches of science dealing with man and human activity in a fairly definite form stresses *the statistical character of the relations between causes and effects manifesting themselves in human conducts, among them in anti-social conducts.*

"The statistical approach does by no means contradict determinism: it is a variant of it. Distinction should be made between dynamic and statistical relations on the one part, and regularities, on the other. Still the one as well as the other presupposes a causal interpretation and both are to their full extent embraced by determinism in the Marxists meaning of the term."<sup>10</sup>

Essentially *Kudryavtsev* identifies the causal relations, determinedness, with the regularities manifesting themselves in the phenomena and so beside determinedness he makes allowance for the random element. From this concept of determinedness he then derives the thesis of the



relative independence of human conduct. From this statement it stands out clearly that in human conduct the express, rigorous relationship between causes and effects is absent: "... this means that even the negative effects regularly acting in man will not in all circumstances provoke the violation of the law on his part."<sup>11</sup> The position of Kudryavtsev has been criticised even in the Soviet Union. There are many who believe that his doctrine has its origin "in the incorrect or at least inaccurate" interpretation of the dialectic relation between necessity and random.<sup>12</sup>

Several other authors holding similar opinions may also be quoted. Still the few quotations will in our opinion convey an idea of the typical implied in the different positions quoted here. It is not intended here to argue with the incorrect or inaccurate theses in these quotations. What we intend to do is to set forth our position as lucid as possible.

The problem of the freedom of choice, and of the determinedness of future human conduct should be approached by setting out from the conscious activity of man. Human conduct is a purposeful conduct for the satisfaction of needs and relying on potentialities. It is the property of human consciousness in a more or less realistic form to reflect objective reality. Within this the individual gains consciousness of his own existence, activity and social activity.

In this connection András Szabó makes the appropriate statement that "The determinedness of human conduct before all means the determinedness of consciousness, and the determinedness of the conduct prevail through the effect that various conduct determining-factors exercise in consciousness."<sup>13</sup>

The determinedness of consciousness at the same time embraces the anticipated image of the possible phenomena and their probable consequences. These take part in the form of aims and causes in the determination of the conduct. When the needs emerge in a person, and he becomes conscious of them, the objects, relations, means and elements of objective reality will turn up in consciousness, which are apt to satisfy the needs, together with the manner in which these may be used of. There are several ways, several means for the satisfaction of needs. These are, of course, not equivalent as regards either the degree of the satisfaction of the actual needs, or the methods and the energy of the activity appropriated for the acquisition of the elements for the satisfaction of needs. They are not equivalent even from the point of view of their social appreciation. There are socially approved and accepted ways and means for the satisfaction of needs, and there are yet others prohibited forms punishable by the law or criminal law. Hence needs may be satisfied in a great variety of ways. Society offers many potentialities to the individual. E. g. after the completion of the secondary school objectively several opportunities can be found as a reason for continuing some kinds of studies, or those at universities for those who want to graduate. There are fairly ample selection of food, clothes etc. available for the satisfaction of such needs. Naturally cases may occur when in a given situation there is a narrow scale of potentialities only and a few alternatives will only be given for the statis-

faction of needs, or none at all. Therefore in this sense the variety of potentialities will be an objective reality only from the outside, on the part of society. In the words of Agnes Heller "This will not, however, be the manifestation of autonomy by all means." In fact this is true. Philosophers and specialists dealing with the problem of the freedom of will do not in the first place argue this aspect of the freedom of choice, but the other aspect, namely whether the individual may make his choice of objectively existing potentialities, whether we may say, and if we say so, we do say it correctly, that man may make his choice of these potentialities, or whether all this is mere fiction, and thus the decision of human will to make the one choice or the other is determined, or more precisely, becomes determined.

It is an issue of facts that human conduct will realize one of the potentialities. Realization is, however, preceded by setting the aim or target of the conduct, i. e. the acceptance of the one of the potentialities in preference to the other and the consideration of the method of carrying through the decision. This volition, or the pegging out of the purposeful action, is directly the result of the struggle of subjective causes, i. e. of the motives, or motivation, or, in other words, determined by the motives. The needs, potentialities, means and methods of execution emerging in the consciousness of a definite person, i. e. becoming conscious in the form of motives, will be defined by the combined effect of the state of the person and the actual objective factors. The effect external objective reality will have on the personality will depend on the person's, state and thus also on the directedness and attitude of the personality what the person will comprehend of this reality. The state of personality in turn is determined by objective factors of the past. Hence the motives which emerge in a person before he or she will be setting his or her aim or goal, are in like way predetermined. As can be seen the causal chain is at the same time a connotation of the process of determinedness. The determinedness of some sort of a future human action already started in the past (in the present), and is going parallel to the lapse of time it will last until the realization of the phenomenon, i. e. until the phenomenon will become an effect. Thus within the sphere of human conducts determinedness prevails to the dull extent. There is no mystical force whatever which outside the causal chain would take part in the determination of human conduct. Still if we want, or rather should like, to call the volition of the purposeful psychic activity of man accepting the one of the several potentialities and planning the realization of the acceptance a choice, there is no obstacle whatever to this: it is merely a matter of agreement. Still we have to be aware that this choice is as determined as any other social or natural phenomenon,<sup>14</sup> and that it has nothing to do with the contents which indeterminism attributes to the notion of freedom of choice.

In the dispute on the principles of determinism it often occurs that a wrong interpretation is given to it, wrong conclusions are drawn from it and so many on refuting the erroneous theses consider the principle of



determinism refuted. According to Kudryavtsev e. g. the approval of mechanical determinism would lead in criminology to fatalism. "Truly, if certain causes would in all cases without exception trigger off the same consequences, then an individual brought up in a negative environment would infallibly turn criminal and it would be wasting time and exposing society to risks if we waited for the commission of an unlawful act."<sup>15</sup> Strictly speaking the author here takes arms against predestination, which by itself is the proper course. Yet predestination does not follow from the thesis that wholly identical causes and conditions will in every case lead to identical consequences. Here it should be remembered, however, in reality the environments of a person is criminogenous, he will be exposed also to positive influences and not only to negative impacts. I. e. the so-called criminogenous environment does not comprise all causes and conditions which might combine in the moulding of the personality of the man living in this environment, and so also in defining his actual conduct. Therefore not even from such and similar situations the perpetration of a criminal offence will follow as of inevitable necessity. All this means, however, is that not even the overwhelming part of the causal factors determine the phenomenon. This will be determined by the totality of factors. I. e. the thesis that the totality of causes define the effect unambiguously will stand firmly. A criminogenous environment will not from the very outset determine the perpetration of the criminal offence: it will determine it normally, i. e. render the perpetration of the offence probable. Still the regular and random effect will in conjunction of necessity define human conduct, and so also criminal conduct.

### 3. Autonomy of action

A cardinal problem of the interpretation of the determinist concept is that of the autonomy of action or the relative freedom of will.

Many are inclined to interpret the autonomy of action in a way calling into doubt the complete determinedness of the human will, i. e. within certain objective limitations or potentialities man has freedom of decision. I. e. man may make his decision independently of the objective effects, even in a manner defeating them, he will be exposed to no influences whatever in making up his mind. We shall not deal further with this obviously indeterminist point of view, as we have already defined our attitude to it earlier.

There are, however, many who give a construction to the autonomy of action or to the relative freedom of will as if these notions meant the relative freedom of the personality or the individual in the face of the external factors taking part in determination.

The best known representative of this doctrine is Endre Farkas, who considers the recognition of the autonomy of action necessary in the general recognition of the principle of determinism.

"As for human activity we cannot explore the peculiar form of manifestation of dialectic materialism unless within the human acts, through the analysis of the mutual relations of external and internal forces. Therefore when it comes to put the question of what is called freedom of will, it is not complete determinedness, but the autonomy of action expressing the relations of the external and internal forces, the relative freedom of action, that are the principal, the focal problems." Then after a few remarks on different ideas he continues: "As has been shown earlier, human action will come into being on the ground of the mutual determinedness of the external and the internal forces. And if these dialectics are studied from the aspect of the internal forces, the statement may be made that the external forces do not define the action unequivocally, moreover, without the internal forces the process of events, the „circuit" would not even close. It is exactly this where the relative independence of personality of the external environment finds expression. *Hence the autonomy of action of man exactly expresses that of the forces operating on human action at the given time not only the external, but also the internal forces will define this action, and for that matter the internal factors (as internal cause and as internal action) will also act an important part in bringing about this action.*"<sup>16</sup>

As for its contents one may agree to the ideas here formulated to their full extent. An autonomy of action or freedom of action which emphasizes the relative independence of personality as compared to the actual objective impacts does not contradict the principle of determinism. The establishment of the autonomy of action within determinedness will appear as wholly natural for science. Still it will have an enormous significance for man brought up in the atmosphere of indeterminism and still professing it, inasmuch as it advances the understanding and recognition of the principle of determinism. Therefore the stress laid on the relative independence of personality against the effects of external factors, i. e. the tenet that these factors do not mechanically elicit from man a reaction, has its *raison d'être*, because it makes it clear that the materialist ideology does not identify determinedness prevailing in human conducts with the principle of mechanical determinedness. In the scheme of causality this will be given expression in a way that the objective factors defining actual personality have been appraised as separate relations, as objective factors of the past, and that the anticipated image of future conduct has been recognized as the cause at the end of the action.<sup>17</sup> As it has already been mentioned personality, as it is, selects the external effects, transforms them, adapts them to the directedness and mental disposition of the individual. Still how personality selects, how it receives the external effects, is at this moment already determined. I. e. the autonomy of action is also determined or is on the way of becoming determined. It is exactly for this reason that the relative autonomy of actual personality compared to its external objective world must not be identified with the concept of the freedom of will. Relative freedom of will means that the determination of will cannot be traced back completely



to the causes eliciting this will, in the last resort to material causes, and that in a manner independent of these "something" is manipulating within the limits of objective potentialities.

Still even notionally the terminology of the relative freedom of will is wrong, because *it is not the will that has relative independence in respect of the actual objective (social, biological) effects, but, before the decision of will, the actual personality.* Or in other words, the decision of will, is not the adequate reflection of the quality and strength of the actual objective effects, it is rather these effects which manifest themselves in the decision of will (volition), and in the presence of suitable conditions, in the conduct, even culpable conduct, in accordance with the state of personality.

It is worth while to mention in this connection that the relative autonomy of actual personality cannot be discovered in every man to a uniform extent. In children necessarily this autonomy will manifest itself to a lesser degree than in adults, and in the same way there will be differences also in the autonomy of the actual personality of primitive men of low standards of intelligence in comparison to highly civilized man possessing an abundance of experiences and well acquainted with the regularities of life.

#### 4. Self-determination

Closely associated with the autonomy of action there is the problem of self-determination. Doctrines in the self-determination of conduct have been advanced in for practical purposes all fields of professional literature in philosophical, psychological and legal writings equally. In Hungary the idea of self-determination of the subject manifests itself before all in the influence exercised by Rubinstein, the well-known Soviet psychologist. Almost without exception all writers on the subject quote him as an authority.

*Rubinstein* explains the self-determining role of the subject in the following words: "We cannot explain the origin of human will merely by the transformation of internal processes from the outside, as has been done by traditional, functional psychology. The origin of the will presupposes the change in the mutual relations of the individual and his environment, the outside world, a change which generate internal transformation, too. The starting-point of the origin of the will is formed by the appetites (further the affective components of the appetites are the elementary experiences in which we perceive something as desirable, attractive or repulsive). However, as long as the acts of the individual are in the power of appetites, as long as these acts are determined directly by the organizational or natural peculiarities, the individuum will in the specific meaning of the term have no will.

Strictly speaking a will arises at the moment when man is capable of subjecting his desire to reflection, *in order to relate to them* in one way or other. To this and the individual will have to prevail

over his desires and in a manner abstracted from them he will have to awake himself to the consciousness of his Ego as the subject, who may have desires of the one kind or the other, yet he will not become dissolved separately in each one of his appetites or in the totality of his desires, but will rise above them and will be capable of selecting his desires. As the result of this process his acts will not be determined directly by his desires as forces of nature, but by himself. Hence the origin of the will, as part or component, is inseparably attached to the birth of the individual as *self-determining* subject, who defines his conduct himself, freely and *arbitrarily*, and will answer to it. Man become such a subject possessing consciousness and capable of self-determination through the ideation of his relations to the other man objectivized in the legal and moral norms."<sup>18</sup> The words of Rubinstein are not in agreement with the phraseology of determinism. Nor does his whole *oeuvre* reflect a uniformity of his attitude to the problem. Undoubtedly his sentences or statements overwhelmingly give expression to the principle of determinism. By the side of such statements, however, perhaps for fear of an charge for pre-determinism, there are points of view similar to those quoted before in his works. Földesi, e. g. pronounces a sharp criticism on account of the misunderstandable theses of Rubinstein on the determinedness of the will.<sup>19</sup>

For want of a clear-cut, unambiguous formulation the position Rubinstein has taken has led to conflicting standpoints also in the work of his followers.

To confirm this statement let us quote a passage from the work of Farkas. Speaking of the role of the causes at the end of the action he aptly remarks that "In this process there is nowhere, either in the struggle of the motives, or in the formation of the consciousness of purpose, or in the mental volition, an inkling of mystic indeterminacy; there is no self-exciting free will, on the contrary, throughout consistent determinism prevails."

"This complete determinedness does not, however, mean fatalist predestination. In the life of man everything is determined, but nothing is predetermined. As a matter of fact the determinacy of human action also presupposes the self-determination of the subject. As has been seen, this selfdetermination takes place in two forms: through the activity of the intrinsic causes and of the intrinsic conditions."<sup>20</sup>

The reference to an earlier passage in the form of "as has been seen", provided that the previous exposition of the author has been understood as meant by him, is directed to the intertwining of the psychic happenings between the prompting to action and the act carried through, and to the motivation manifesting itself in the meanwhile, "the intrinsic forces act as action determining factors."<sup>21</sup>

To lend a higher degree of authenticity to his statements the author quotes Rubinstein: "This self-determination of the subject is a necessary link in the determinedness of action. As long as it does not take place, not all conditions determining action will be present, i. e. action will not even



be determined before all these are existent. If we presumed that action had been determined before and thus eliminated the freedom of man, we should substitute predestination for determinism."<sup>22</sup> On this ground Farkas then draws his conclusions: "By way of summing the answer to the first set of problems of free will, to the question of determinacy or indeterminacy we may state that as in all other phenomena of the material world, there are no mystical, indeterminate phenomena. Human action (or in the traditional terminology: human will) is by the totality of the external and internal forces to the full extent determined and self-determined in the process of becoming determined; this we may express with the simplified formula  $BK = A$ , (here  $K$  denotes the external conditions and circumstances,  $B$  stands for the internal causes and  $A$  for the will (action). This doctrine rejects the doctrine of indeterminism relating to the free will, and the teaching of fatalism on predestination, and substitutes complete determinism also embracing the self-determination of man for the mystic self-exciting free will and fatalism."<sup>23</sup>

It cannot be argued that Farkas is the follower of determinism, still his exposition on self-determination is not quite clear. It is easily misunderstood, the difference between, "mystic self-excitation" and "self-determination" is not well perceptible, and therefore it appears as if man stood above the process of determination, as if he would be the guider of the process rather than a participant. This theoretical formulation of purposeful human activity has led certain experts of criminology to give expression to the in general recognized concept of determinism in a manner easily misunderstood. Földvári e. g. enumerates among the theses relating to the determinedness of the will also the one that "the individual may influence the development and formation of his personality."<sup>24</sup> I. e. the individual stands above his personality. Then later, from the point of view of responsibility she defines the basic problem by asking the question "*to what extent does the formation of the personality depend on the individual?* Do external circumstances by themselves decide the formation of personality, or do the congenital, inherited faculties of man direct this or perhaps the two in combination, or may perhaps a person possessing an intellect, the faculty of valuation and choice determine the development of his personality notwithstanding the influence of external circumstances and inherited faculties?"<sup>25</sup>

In connection with the opinions of Földvári M. Ficsór aptly remarks that "The essence of man is lent by his personality; the mention of the individual as something outside personality, and capable of influencing this personality . . . may conceal the clandestine duplication of man."<sup>26</sup>

Here the question may justly be asked that if "the person possessing an intellect, the faculty of valuation and choice" is above his personality, what are the notions which may describe this personality. Eventually Földvári, by referring to Rubinstein, comes to the conclusion that "either we recognize the power of man to shape his character or personality, and in this case we have to recognize the possibility also that man may come to a multiplicity of decisions, or we deny the possibility of self-education

and the shaping of personality and in this case we consider the decision of will unambiguous and predetermined. . . ." We recognize the complete determinedness of the will by material factors, still together with E. Farkas we recognize the possibility also of making the choice of a number of actions.

The will of man is determined by external as well as internal factors completely, still there is always left a chance for a multiplicity of actions. To deny this would amount to fatalism, which is the property of mechanistic, yet not dialectic materialism.<sup>27</sup>

In our opinion there is a certain contradiction in these statements. If external and internal factors completely define the will, then man could behave in a uniform way only in the same situation. Obviously in a concrete act the causal factors do not make allowance for a different act. The reference to the position taken by Farkas demonstrates that owing to the formulation difficult to grasp Mr. Földvári misinterpreted the essence of the autonomy of action or self-determination as defined by Farkas.

In our opinion the "self-determining function of the subject" is apt only to introduce difficulties into the understanding of the principle of determinism. Here the gist of the problem is, how human conduct, the acts of man, are determined? The will or the determination of the decision of will is though the cardinal phase in the process of determination, still personality determines the action, the deed, only in conjunction with the external conditions. And neither are the decision of will, the intention, identical with the deed: both will develop to it only in the presence of appropriate conditions.

Nobody denies that the personality of man, the actual personality, dispose of no relative independence in the face of the external environment or the intrinsic needs. It is exactly the essence of purposeful activity that the actual personality in a manner corresponding to its directedness or attitude filters the external stimuli, makes its choice the means of the satisfaction of needs according to their degree and sequence of manifestation. As the result of this psychic process decision of will be born for the translation into reality of the one of the possibilities, and in a manner appearing to be the most appropriate and most reasonable for the satisfaction of the needs of man or the individual. Still logically this psychic process cannot be taken for self-determination, because here the question is one of the creation of the decision of will by the combined effect of external and internal objective relations, and not one of man standing in the midst of the process of determination determining himself, or even of the personality determining itself.

Naturally the question whether man may educate himself, from his personality, may justly be put. It was Marx who declared that man in the course of his activity not only transforms, humanizes the external world, but at the same time changes himself.<sup>28</sup>

What is underlying this change is the interaction of man and the external world. The nature and society shaping acts of man not only pro-



duce external changes, but also react on the acting man himself. It is in this sense that A. Szabó speaks of the self-determining elements of personality. "Marxist sociology recognizing that man is also a link in the causal chain determining social reality at the same time emphasizes that human action is fully determined and this also includes the self-determining element of personality. Without the recognition of the self-determining element of personality we should deny the capacity of man to translate potentialities into reality, we should deny his role in the preparation of happenings."<sup>29</sup>

On speaking of causality we have made it clear that the acts of man's own have a particularly significant effect on man, for he is with these in the most direct connection. If the acts of man are adequate for the satisfaction of man's needs in accordance with his ideas, or even beyond them, then they will encourage him to similar acts and vice versa.

It is exactly owing to his conscious or self-conscious nature that man can recognize the regularities which in the long run guarantee the satisfaction of his needs, i. e. these regularities will be reflected in man himself. Consequently he will consciously carry through acts (e. g. the winning of a university diploma) which will render him capable of pursuing activities of which he was incapable earlier. Or he may become aware of the regularity that knowledge stands for the better understanding of social conditions, a fact which is useful also for the individual and which also serves his interests, so, that he will embark on activities for the acquisition of a variety of disciplines. *All this may be considered self-teaching, self-education, the conscious formation of one's own personality.* All this, however, does not defeat the principle of determinism a title, for the decision of will directed to this activity and the pursuit of the activity itself becomes reality through the process of determination in the same way as any other phenomenon.

The reality of purposeful activity performed for the acquisition of the ability for self-education and adaptation, and for the better satisfaction of needs is denied not even by the followers of determinism: on the contrary, they attribute a high degree of significance to this activity.<sup>30</sup>

In this connection Tokaji aptly states: "Since the so-called self-movement of personality is in our opinion determined (at least by the foregoing development of personality), we believe that neither the reference to the "self-movement" of the consciously acting man can be smuggled back into some sort of a minimum freedom of will disintegrating the "closed system" of the determinants."<sup>31</sup>

Hence "self-determinism" cannot be accepted for its contents unless we understand by it the retroaction of the activity of the individual on the formation of personality, as objective reality and the role of this activity of a determinant in the process of determination.

### 5. The illusion of the freedom of choice

From all that has been set forth so far it has become obvious that determination prevails in the decision of will in the same way as in the birth of any other phenomenon, and consequently there is no free will existing independently of the material conditions. There is a fact very often contrasted with this viewpoint according to which man feels like deciding freely and being able to choose any of the possibilities. Determinist doctrine considers the experience of a free choice merely a fiction, an erroneous reflection of reality. In connection with this Gy. Nyirő, the well-known psychiatrist, writes as follows: "The idealist philosophers, the indeterminists in "will" presuppose a special human faculty of a spiritual character independent of matter. According to this doctrine man decides freely how to act. They try to demonstrate the truth of their allegation with the teaching of religion and the subjective experience according to which if we act the feeling as if we did so freely and that we could also have done the opposite arises in us. Materialist medical science cannot adopt this doctrine, and regards the will no events as free, as an independent, spiritual event so to say emerging from the total of the soul. We do not feel the determined nature of our decision, because *our will is the function of the process of organization of external influences and internal happenings.*

*"The subjective experience that we make decisions freely is an illusion, self-deception. It has its origine in the fact that man in the possession of the second signalizing system disposes of a much larger number of connecting possibilities, as any other living being. Man reflects the world in a duality: not only in his perceptions but also in his words. Since man is capable of translating the contents of the first signalizing system into another signalizing system, viz. the world of words, and since the words in their biological effects, if only in a rudimentary form, essentially represent the stimulus which they purport to refer to in their name, it appears to be confirmed that the "process of volition" is not even the psychological projection of some sort of a psychological event, but only its consequence, which, dependent on conditions, has come to pass. The animal is capable only of simultaneous connections, only a previous after-image or engram similar to the stimulus will turn up in its consciousness and direct its motional conduct. Man, in possession of the second signalizing system, disposes of successive connecting facilities, and in response of an external stimulus, masses of images revive in him, the traces of all the amount of knowledge have been piled up in him and converted into dynamic stereotypes, all which during the cognition of the world, through learning, the influence of fashion, through the different influences of society, social tradition, owing to relationships."<sup>32</sup>*

A similar position has been taken by Bleuler, a German psychiatrist. In his doctrine in the Ego psychic experiences, or complexes, lead to a result which owing to identism we experience as our own will. Hence endeavours, appetites, aims can reach ideation only as endeavours, etc.



of our own. The force of volition derives from the level of instincts, affects; and this level is in the wake of ancient experiences just as well and causally established as any other biological experience. It is a peculiar delusion therefore, when man has the feeling as if he could have acted otherwise. This could be possible only if the motives or congenital instincts and inclinations could be other ones.<sup>33</sup>

Delusions similar to those of the freedom of will may be encountered also in other fields of everyday life. E. g. the slanting appearance of a straight object immersed in water owing to refraction, or the mutual relation of the dimensions of objects nearer to us and in the distance owing to the distance, or the rotation of the sun round the earth, are all phenomena where observation departs from reality. We merely know of reality we may imagine it, still as sensation or experience the distorted reflection will remain. And owing to a distorted, freakish reflection man, with an erroneous outlook to things, will consider the unreal reality until knowledge, experience will direct his attention to the processes of objective reality.

Actually human knowledge has advanced beyond the boundaries of direct perception. By indirect methods, or deductions regularities and laws may be recognized whose existence can be proved beyond doubt. Here only the Copernican discoveries, or the well-known periodic system of Mendeleev should be remembered, where deductive statements have led to the recognition and observation of certain missing elements.

According to the psychiatrists or neurophysiologists medical science, and biology have provided undefeatable proofs of the causal determination of human conduct. It is an established fact that consciousness is a product of the brain. Moreover the regions of the brain are known where the particular elements of the faculty of speech, viz. facility of writing, of reading, articulated speech and the faculty of understanding speech may be localized.<sup>34</sup> What biology or medical science is still unable to demonstrate without ambiguity is not determination of the will, but the accurate neuro-physiological process of determination. Perhaps owing to an imperfect knowledge of the physiological mechanism in particular among the representatives of the social sciences there are still many who do not consider the determination of human conduct sufficiently proved. From this point of view in particular the outlook of Békés may be termed as typical: "The question is, whether . . . . the position taken by mechanical determinism, or that of moderate determinism is the correct one, cannot be decided at this moment, because neither position can be proved scientifically. Both statements are so far merely theoretical theses," (In his lecture notes on the general part of Criminal Law.)<sup>35</sup>

Even the way he puts the question is inaccurate: the question here is not whether mechanical determinism or moderate determinism is the correct one, but first whether determination prevails in human conduct and so in culpable human conduct too, secondly, if this is the case, how, in what form, and means of what mechanism determination operates. The first question was answered by science positively a long time ago, the

second will be given with the progress of science with ever improving precision in the future.

The history of ideas, and also of the different trends of ideas, clearly demonstrate that ideas owe their origin to definite causes and conditions and that with the change of circumstances they have yielded to more modern or more exact trends. The idea of indeterminism is also closely associated with a certain level of cognition or science. Technical, biological and social sciences have already proved that there exists causality as the relation between cause and effect, in each form of the phenomena. The domination of determination in this sphere also follows from the causal relations of human conducts. This outlook may today be considered the general: indeterminism has but few champions. For a scientific mind it would be hard to adopt the point of view of indeterminism merely because the physiological views of the processes determining human will are not yet known in details. This applies also to "moderate determinism" which is but indeterminism with certain limitations. The fact that the principle of determinism is not in agreement with a number of theoretical theses relating to human conduct (e. g. retaliation as the purpose of punishment) must not lead to the rejection of determinism: on the contrary the theses conceived on the ground of earlier determinism have to be adapted to modern determinism.

It is fundamentally erroneous to assume that the principle of determinism prevails in phenomena of nature, e. g. in mechanics in the same way as in those of social sciences, e. g. in delinquency. The way the principle of determinism dominates will in all cases bear the marks of the specific nature of the phenomenon. Mechanical determinism is not erroneous by itself: it is the tendency that is wrong, notably a tendency which wants to transplant the determination manifesting itself in the movements of mechanics, of solid bodies into the dominion of human conduct. Human conduct is a form of motion of different kind, thus not only the pattern of determination will be different but certain regularities as well. Here the specific nature is given by the personality of man, his consciousness, his purposeful action. Many oppose the approval of the concept of determinism because in their opinion determinism goes together with the rejection of the concept of freedom. These two concepts are, however, not preclusive of each other, on the contrary: the one presupposes the other. It was Engels who has already clearly formulated the contents of freedom, when he wrote that freedom did not consist in an imaginary independence of the laws of nature, but in the recognition of these laws and in the potentialities offered by them to enlist the laws of nature for the service of aims defined according to plan. This can be applied in the same way to the laws which brought under regulation the corporeal and intellectual existence of man, to the two categories of laws which could be segregated from one another at most in the mind, but never in reality. Therefore the freedom of will merely meant the faculty of making decisions with understanding. Hence freedom was dominion over ourselves and external nature based on the cognition of natural exigencies.<sup>36</sup> We



can speak of the freedom of will only when the decision of will conforms to the regularities manifesting themselves in the phenomena, or there is congruity between them. On the other hand any decision ignoring the dominant laws must be termed as arbitrary. (For the details of the concept of freedom the work of E. Farkas quoted above.)

A. Szabó transplants the ideas of Engels into the sphere of legal regulation and criminal human conduct with extreme clarity and in a graphic form: "..... for the subject the legal provision is as much a law as the external (objective) law, as the law of nature or the social laws. As a matter of fact the provision of law, as norm and as requirement, is part and parcel of reality: it does not float over reality, it cannot be confronted to reality (here we have in mind the erroneous setting of the question of "*Sein*" and "*Sollen*" (in the first place.)<sup>14/a</sup> The provisions of law are for the personal will and the subject as objective laws as the laws of production relations or the laws of nature.)<sup>14/b</sup> If the conduct fails to conform to the demands expressed in the legal norms, if it fails to enforce the legal obligation, is it possible to speak of the freedom of will at all? Obly such a person can act freely, who acts in socially proper manner (the contents of his will and his conduct conform to objective external law), any other action is arbitrary and only the semblance of freedom (<sup>15/a</sup>) for the criminal offence is a volitional action: the realization of the anticipated aims of the criminal. We have seen, however, that volitional action cannot stand for the higher form of an act of the will unless in its contents it conforms to the objective requirements."<sup>37</sup>

As will be seen, the freedom of will, this interpretation of freedom, can be reconciled in every respect to the interest attached to the reduction of delinquency and the properly interpreted socialist liability under criminal law.

## 6. The "dialectic" interpretation of determination

The last remark associated with the principle of determinism relate to "dialectic" interpretation. It may occur, in particular in philosophical literature, that in general for the "resolution" of the inconsistent formulation or standpoint of the author, yet in reality for the unveiling of contradictions, such and similar formulations are represented as dialectical. T. Földesi in his dispute with A. Gy. Szabó in a brilliant manner demonstrates that a phenomenon cannot be determined and not determined at the same time. In his opinion all that argumentation of this type has to do with dialectics is what the statement would have to do, that "for its essence the world is material — for its essence the world is spiritual."<sup>38</sup>

A similar formulation can be found in the writing of Judith Fodor, still here only the formulation may be made subject to criticism, as her point of view is an unmistakably determinist one. On analysing the problem of single-multi-meaning and of the multi-single-meaning determinedness she comes to the conclusion that "With a phrase by far not alien to dialectics the contradiction can be resolved in the way that we prove:

*a thing can come into being only in the way it has come about, and at the same time it could have come into being in an other way; it is determined and undetermined at the same time in so far as in the course of its formation it turns from undetermined to determined.*"<sup>39</sup>

In this sentence the terms "at the same time" and "at the time" seem to convey the idea of contemporaneity. In this case the statement cannot be true: the remark of Földesi will be valid for it. Still if this is the case of separate time, to what we may conclude faintly from the last clause of the sentence, then instead of the "dialectic" explanation greater clarity of the formulation would have suited better scientific requirements. This outlook has encouraged the present author to demonstrate the untenable character of a "too-too" standpoint by reference to a concrete phenomenon. There are houses already built up, others being built, and yet others to be built in the future. May we say on the analogy of Fodor's definition that a house is built and has not been built yet at the same time? Or may a house once built up could at the same time have been built up otherwise? Obviously only half of the statement is true. In the first sentence the house has either been built up, or not been built up. Here a decision does not require a particular theoretical erudition. In the second sentence only the statement is true that it could have been built up only as it has been built up, because if it had been built up otherwise, it would not be the same house. Naturally houses may be built and are even being built in a variety of ways, still a concrete house could be built up only in the way it has been built up. And any house to be built, in the future can be built up in a single way only, in the way as defined by the design and its execution. Still this is as simple also as far as human conducts are concerned. A concrete future act, any concrete act, i. e. any human conduct can pass off in a single way only, in the way namely as determined by the subjective and objective factors. Naturally the meaning of the words will be different according to whether we speak of houses, or human conducts, or phenomena. In this sense there are determined phenomena (built up houses, realized human conducts), and there may be and even will be phenomena in the process of being determined (not yet determined), such as houses in the process of being built or to be built in the future, criminal offences in the process of perpetration or to be perpetrated, etc. These thoughts cannot, however, be contracted into a single sentence in a way that phenomena are determined and not determined, in the same way as it would be meaningless to state of houses that they have been, and have not been built up.

#### NOTES

<sup>1</sup> Földesi, T.: Az akaratszabadság problémája. (The problem of the freedom of will), Gondolat, Budapest, 1960.

Eörsi, Gy.: A jogi felelősség alapproblémái, a polgári jogi felelősség. (Fundamental questions of legal liability, the civil law liability,) Akadémiai Kiadó, Budapest, 1961.



Dr. Szabó, A: A fiatalok és a büntető jog. (Juveniles and criminal law.) Közgazdasági és Jogi Könyvkiadó, Budapest, 1961.

<sup>2</sup> Korch, H.: Okság és determinizmus. (Causality and determinism. A selection of passages specialing of dialectic materialism.) Kossuth Könyvkiadó, 1969–70. p. 168.

<sup>3</sup> Fodor, J.: A determinizmus-koncepció és kapcsolatai a kvantummechanikával. (The concept of determinism and its relations to quantum mechanics.) Akadémiai Kiadó, Budapest, 1972. p. 143.

<sup>4</sup> Farkas, E.: Szabadság és egyéniség (Freedom and personality.) Kossuth Könyvkiadó, 1968, pp. 58–59.

<sup>5</sup> Eörsi, Gy.: op. cit. p. 84.

<sup>6</sup> Földes, T.: Miért olyan amilyen? (Why is it so as it is?) Magyar Filozófiai Szemle, 1967. No. 6. Recently an ever growing number of members of the legal profession insist on the supremacy of the principle of determinism in legal responsibility, E. g.

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Tokaji, G.: Adalékok a bűncselekmény-fogalom felépítéséhez. (Contributions building up the notion of criminal offence.) Dissertation for candidacy, 1972.

Szilágyi, P.: A jogi felelősség fogalma és alapja (Notion and basis of legal liability). Jogtudományi Közlöny. 1974. No. 6.

<sup>7</sup> Heller, A.: A szándéktól a következményig (From the intention to the consequence). Lectures on general ethics. (Magvető Kiadó, Budapest, 1970, p. 77.

<sup>8</sup> Békés, I.: Büntetőjog. Általános rész (Criminal law. General part), vol. 1. edited by J. Pintér. Tankönyvkiadó. Budapest, 1973. Chapter 1. p. 23.

<sup>9</sup> Kudryavtsev, V. N.: Priesinnoshty v kriminologii, Jurigyesieszkaja literatura, Moszkva, 1968. 118. old. (The causality in criminology.)

<sup>10</sup> Ibid., pp. 120–122.

<sup>11</sup> Ibid., p. 124.

<sup>12</sup> Volzhenkin, D. B.: Determiniszticeszkaja koncepcija presztupnovo povegyenyija, Szovjetszkoje Goszudarsztvo i pravo, 1971. No. 2. (The determinist concept of criminal conduct.)

<sup>13</sup> Dr. Szabó: op. cit. p. 167.

<sup>14</sup> Földesi: op. cit.

<sup>15</sup> Kudryavtsev: op. cit.

<sup>16</sup> Farkas: op. cit. Also see: Hiebach, H. – Vorwerg, M.: Bevezetés a marxista szociálpszichológiába. Einleitung in die marxistische Sozialpsychologie (quoted from the Hungarian translation published by Kossuth Könyvkiadó, Budapest, 1969. p. 59).

<sup>17</sup> Vigh, J.: Priesinnoshty presztupleniy i jih zakonomerosztyi. Annales Universitatis Scienciarum Budapestinensis de Rolando Eötvös Nominatae tomus XIII. 1971.

<sup>18</sup> Rubinstein, S. L.: Az általános pszichológia alapjai (Foundations of general psychology, vol. II.) II. kötet, Akadémiai Könyvkiadó, Budapest, 1964. 791–792. old.

<sup>19</sup> Földesi: op. cit. pp. 289–291.

<sup>20</sup> Farkas: op. cit. p. 62.

<sup>21</sup> Ibid: p. 61.

<sup>22</sup> Ibid: pp. 62–63.

<sup>23</sup> Ibid: p. 64.

<sup>24</sup> Földvári, J.: A büntetés tana (The doctrine of punishment). Közgazdasági és Jogi Könyvkiadó, Budapest, 1970. p. 69.

<sup>25</sup> Ibid: p. 72.

<sup>26</sup> Ficsor, M.: A determinizmus szerepe a büntetési célok meghatározásánál (The role of determinism at the definition of the aims of punishment). Jogtudományi Közlöny, 1972. No. 12.

<sup>27</sup> Földvári: op. cit. pp. 73–74.

<sup>28</sup> Marx–Engels: Works. vol. 3 (Quoted from the Hungarian edition, Budapest, 1960, p. 7).

<sup>29</sup> Szabó, A.: A kriminológiai alapkutatások elvi kérdései (Questions of the principles of criminological basic research). Állam és Jogtudomány, 1963. Vol. VI, No. 3, p. 332.

<sup>30</sup> See Eörsi: op. cit. p. 96.

<sup>31</sup> Tokaji, G.: Adalékok a bűneselekményfogalom felépítéséhez. (Contributions to building up the idea of criminal offences.) Acta Juridica et Politica, Tomus XIX, Szeged, 1972. p. 31.

<sup>32</sup> Psychiatria. Ed. by Gy. Nyíró. Medicina Könyvkiadó, Budapest, 1971. pp. 65–66.

<sup>33</sup> Reviewed by Dr. Szobor, A.: Affectív és voluntáris magatartásmódok elmekórtani értékelése (Psychopathological valuation of the affective and voluntarist ways of conduct), Medicina Könyvkiadó, Budapest, 1971. p. 164.

<sup>34</sup> See Ádám, Gy.: Érzékelés, tudat, emlékezés biológus szemmel (Perception, consciousness, remembrance with the eyes of a biologist). Medicina Könyvkiadó, Budapest, 1969.

<sup>35</sup> Büntetőjog. (Criminal law.) General part 1. Ed. by Pintér. Tankönyvkiadó, Budapest, 1973. p. 23.

<sup>36</sup> Engels: Anti-Dühring. (Quoted from the 3rd Hungarian edition, p. 118.)

<sup>37</sup> Szabó, A.: A fiatalkorúak és a büntetőjog (Juveniles and criminal law). Közgazdasági és Jogi Könyvkiadó, Budapest, 1961. p. 245.

<sup>38</sup> Földesi, T.: Miért olyan amilyen? (Why is it so as it is?), Magyar Filozófiai Szemle, 1967. No. 6.

<sup>39</sup> Fodor, Judith: A determinizmus-koncepció kapcsolatai a kvantummechanikával (The concept of determinism and its relations to quantum mechanics), Akadémiai Kiadó, Budapest, 1972. pp. 174–175.

## DIE DEUTUNG DER IM VERBRECHERISCHEN MENSCHLICHEN VERHALTEN ZUR GELTUNG KOMMENDE DETERMINATION

von

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(Zusammenfassung)

In der Kriminalliteratur der sozialistischen Länder beschäftigen sich immer mehr Studien mit dem Zusammenhang der in dem Menschlichen Verhalten zur Geltung kommenden Determination und der strafrechtlichen Verantwortung.

In der Studie wird die Determination als ein allgemeingültiges Gesetz formuliert, das gleicherweise in den Erscheinungen der Vergangenheit, wie auch der Gegenwart restlos zu Geltung kommt. Aus dieser These folgt, daß im verbrecherischen menschlichen Verhalten der objektive, von den materiellen Verhältnissen unabhängige Wille keinen Platz hat, das Verbrechen ist, beziehungsweise wird also durch die Ursachen und Bedingungen eindeutig bestimmt.

Das Milieu bietet mehrere Möglichkeiten zur Bedürfnisbefriedigung auch für die menschlichen Tätigkeit, aber welche Möglichkeit vom Menschen realisiert „gewählt“ wird, ist die Folge der Ursachen, der Bedingungen, d. h. die Determination kommt auch bei der Entscheidung zur Geltung.

Die Konzeption des „verhältnismäßig freien Willens“ ist insofern anzuerkennen, daß die aktuelle Persönlichkeit den objektiven (äußeren und inneren) Wirkungen gegenüber, infolge des Bewußtseins, eine verhältnismäßige Selbständigkeit hat. Diese verhältnismäßige Selbständigkeit ist aber durch die objektiven Wirkungen der Vergangenheit determiniert. Da ist aber auch nicht vom Willen, sondern von der Selbständigkeit der aktuellen Persönlichkeit die Rede.

Die Studie betont, daß die Determination im Kreise des menschlichen Verhaltens ganz anders zur Geltung kommt, wie bei den mechanischen oder im allgemeinen bei den Erscheinungen der Natur. Bei der Entstehung der Straftat, als Wirkung spielen die Ziel-Ursachen, die die Möglichkeiten der Zukunft antizipierenden Zielvorstellungen eine wichtige Rolle. Das ist der am meisten spezifische Zug der Determination des Menschlichen Verhaltens. So sind die Vergangenheit und die Zukunft im Determinationsprozeß verbunden. Die während der Strafzumessung zu ergreifenden Maßnahmen werden, also wegen des Verhaltens in der Vergangenheit im Interesse der günstigen Determination der Zukunft angewendet.



**ПОНЯТИЕ ДЕТЕРМИНАЦИИ В ВИНОВНОМ ПОВЕДЕНИИ ЧЕЛОВЕКА**

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(Резюме)

В литературе уголовного права социалистических стран все больше научных работ занимается отношением между детерминацией в виновном поведении человека и ответственностью по уголовному праву. В научной работе детерминация оформляется как общепринятый закон, который осуществляется одинако и в явлениях прошлого и в явлениях будущего. Из этого положения вытекает, что в виновном поведении человека не имеет места объективная, не зависящая от материальных отношений воля, т. е. преступление однозначно определяется или определено причинами и условиями.

Окружающая среда дает много возможностей для удовлетворения потребностей и для человеческой деятельности, но то, что из этих которую выбирает, „реализирует“ человек, совершитель преступления, является последствием причин и условий, т. е. и в решении осуществляется детерминация.

Концепция „относительно свободной воли“ признается в том смысле, что данное лицо вследствие сознания имеет относительную самостоятельность в отношении объективных (внешних и внутренних) действий. Эта относительная самостоятельность однако определена объективными влияниями прошлого. Но и здесь речь идет о самостоятельности данного человека и не о самостоятельности воли.

Научная работа подчеркивает, что детерминация иначе осуществляется в кругу виновных поведений человека, чем в кругу механических или вообще естественных явлений. В возникновении преступления, как следствия, играют большую роль цели, мотивы, представления целей, антиципирующие возможности будущего. Это является наиболее свойственной чертой детерминации человеческого поведения. Тут связывается прошлое и будущее в процессе детерминации. Таким образом мероприятия, принятые в ходе привлечения лица к уголовной ответственности за его поведения в прошлом, применяются в интересах благоприятной детерминации будущего.